

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

EAST BROADWAY MALL,

Case No. 19-12280 (DSJ)

Debtor.

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**ORDER PURSUANT TO BANKRUPTCY RULE 2004 DIRECTING (I) EAST BROADWAY MALL AND TERRY CHAN TO PRODUCE DOCUMENTS AND (II) EAST BROADWAY MALL, BY A PERSON WITH KNOWLEDGE OF ITS ASSETS AND TRANSACTIONS, AND TERRY CHAN TO APPEAR FOR EXAMINATIONS**

Upon the motion (the “**Motion**”) of Bank of Hope f/k/a BBCN Bank (“**Bank of Hope**”), creditor of the debtor East Broadway Mall (“**EBM**” or the “**Debtor**”) in this chapter 11 case, by and through its undersigned counsel Windels Marx Lane & Mittendorf, LLP (“**Windels Marx**”), for entry of an order under Federal Rule of Bankruptcy Procedure 2004 directing EBM and Terry Chan (“**Terry**”) to (i) produce the documents requested in **Exhibit A** and **Exhibit B**, respectively, attached to the Motion, and (ii) for (a) EBM, by a person with knowledge of its assets and transactions, and (b) Terry to appear for examinations; and sufficient cause having been shown and due deliberation had thereon, and no further notice thereof being required, it is hereby:

**ORDERED**, that

1. The Motion is granted as set forth below.
2. Windels Marx is hereby authorized to sign a subpoena (the “**EBM Subpoena**”) to be served with the Motion and a copy of this Order, by fax or email upon counsel for the Debtor, and no other service shall be required.
3. EBM is hereby directed to serve a response to the EBM Subpoena, along with any responsive documents, within 20 days of the service of the EBM Subpoena, the Motion and this Order, to Bank of Hope at the offices of Windels Marx Lane & Mittendorf, LLP, 156 West 56<sup>th</sup>

Street, 22<sup>nd</sup> Floor, New York, New York 10019, Attention: James M. Sullivan, Esq.

4. EBM, by a person with knowledge of its assets and transactions, shall appear at Windels Marx Lane & Mittendorf, LLP, 156 West 56<sup>th</sup> Street, 22<sup>nd</sup> Floor, New York, New York 10019 at a date and time to be specified in the EBM Subpoena, and from time to time thereafter as may be scheduled by Bank of Hope, to provide testimony relating to the matters described in the Motion and Exhibit A to the Motion.

5. If the EBM Examination is rescheduled by Bank of Hope, EBM, by a person with knowledge of its assets and transactions, shall appear on a new date and time (the “**Rescheduled EBM Date**”) to be scheduled by Bank of Hope after reasonable consultation with EBM’s attorneys.

6. Bank of Hope shall give the party to be examined at least seven days’ notice of the Rescheduled EBM Date and that notice is proper if at least seven days prior to the Rescheduled EBM Date, Bank of Hope notifies the attorneys for EBM by facsimile or electronic mail message of the Rescheduled EBM Date.

7. Windels Marx is hereby authorized to sign and serve a subpoena (the “**Terry Subpoena**” and collectively with the EBM Subpoena, the “**Rule 2004 Subpoenas**”), the Motion and a copy of this Order, by fax or email upon Terry, and no other service shall be required.

8. Terry is hereby directed to serve a response to the Terry Subpoena, along with any responsive documents, within 20 days of the service of the Terry Subpoena the Motion and this Order, to Bank of Hope at the offices of Windels Marx Lane & Mittendorf, LLP, 156 West 56<sup>th</sup> Street, 22<sup>nd</sup> Floor, New York, New York 10019, Attention: James M. Sullivan, Esq.

9. Terry shall appear at Windels Marx Lane & Mittendorf, LLP, 156 West 56<sup>th</sup> Street, 22<sup>nd</sup> Floor, New York, New York 10019 at a date and time to be specified in the Terry Subpoena,

and from time to time thereafter as may be scheduled by Bank of Hope, to provide testimony relating to the matters described in the Motion and Exhibit B to the Motion.

10. If the Terry Examination is rescheduled by Bank of Hope, Terry shall appear on a new date and time (the “**Rescheduled Terry Date**”) to be scheduled by Bank of Hope after reasonable consultation with Terry or his attorneys.

11. Bank of Hope shall give Terry at least seven days’ notice of the Rescheduled Chan Date and that notice is proper if at least seven days prior to the Rescheduled Terry Date, Bank of Hope notifies Terry or his attorneys by facsimile or electronic mail message of the Rescheduled Terry Date.

12. The EBM and Terry Examinations will continue from day to day, excluding Saturdays, Sundays, and legal holidays, until completed.

13. To the extent EBM or Terry do not produce any documents requested in the EBM or Terry Subpoenas on the basis of some alleged privilege, EBM and Terry are hereby directed to provide Bank of Hope with a privilege log in accordance with Local Bankruptcy Rule 2004-1 at the time of document production hereunder.

14. EBM and Terry are hereby directed to ensure that all documents and other information, including without limitation in any electronic format, requested in the EBM and Terry Subpoenas are properly maintained, are available for inspection, and are not destroyed.

15. EBM and Terry, or their counsel, shall, prior to conducting an electronic search utilizing search terms, meet and confer with Bank of Hope’s counsel to attempt to agree on appropriate search terms.

16. This Order is without prejudice to Bank of Hope’s right to file further motions or applications under Bankruptcy Rule 2004 seeking additional documents or testimony if warranted

under the circumstances.

17. All disputes concerning the Rule 2004 Subpoenas, including objections thereto, that are not resolved by agreement of the parties may be raised only by letter brief to the Court not exceeding five pages, single spaced. The other party shall file a responsive letter brief within three business days, which shall not exceed five pages, single spaced. Copies of such letter briefs shall also be emailed to the Court's chambers.

18. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York  
April 13, 2022

*s/ David S. Jones*  
HONORABLE DAVID S. JONES  
UNITED STATES BANKRUPTCY JUDGE